



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2013-0325

RIN 1625-AA08

Temporary Change of Dates for Recurring Marine Event in the Fifth Coast Guard District, Mattaponi Drag Boat Race, Mattaponi River; Wakema, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary change to the enforcement period of special local regulation for one recurring marine event in the Fifth Coast Guard District. This event is the Mattaponi Drag Boat Race, which is a series of power boat races to be held on the waters of the Mattaponi River, near Wakema, Virginia. This special local regulation is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic during the power boat races on the Mattaponi River immediately adjacent to the Rainbow Acres Campground, located in King and Queen County, near Wakema, Virginia.

DATES: This rule is effective June 22-23, 2013.

This rule will be enforced from 10 a.m. to 6 p.m. on June 22, 2013. In the event of inclement weather on June 22, 2013, this rule will be enforced from 10 a.m. to 6 p.m. on June 23, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2013-0325]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Hector Cintron, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone 757-668-5581, e-mail Hector.L.Cintron@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register

A. Regulatory History and Information

This rule involves an annually occurring marine event that is scheduled to take place on the 3rd or 4th Saturday in August, as published in the table to 33 CFR 100.501. The Mattaponi Volunteer Rescue Squad has changed the date of the event to take place on June 22, 2013 from 10 a.m. to 6 p.m. The "rain date" is June 23, 2013.

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because any delay encountered in this regulation's effective date by publishing a NPRM would be contrary to public interest. On April 8, 2013 the Coast Guard was informed about the date change. It appears that the original sponsoring organization for this event is now defunct and a new sponsor has taken over. The new sponsor did not submit the requisite Application for a marine event on time.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. The measures contemplated by this rule are intended to protect the safety of the persons participating in the event, spectators to the event and any other vessels that may pass through the restricted area. Any delaying of the effective date would be contrary to the public interest since immediate action is needed to ensure the safety of those noted.

B. Basis and Purpose

The Mattaponi Volunteer Rescue Squad is sponsoring a series of power boat racing events titled the "Mattaponi Madness Drag Boat Event." The power boat races will be held on the following dates: June 22, 2013, and in the case of inclement weather, the event will be rescheduled to June 23, 2013. The races will be held on the Mattaponi River immediately adjacent to the Rainbow Acres Campground, King and Queen County, Virginia. The power boat races will consist of approximately 40 vessels conducting high speed straight line runs along the river and parallel to the shoreline. A fleet of spectator vessels is expected to gather near the event site to view the competition. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the power boat races.

C. Discussion of the Final Rule

The regulation listing annual marine events within the Fifth Coast Guard District and corresponding dates is 33 CFR § 100.501. The Table to §100.501 identifies marine events by Captain of the Port zone. This particular marine event is listed in section (c.) line No. 23 of the table.

The current regulation described in section (c.) line No. 23 of the table indicates that the drag boat race event should take place this year either on the 3rd Saturday and Sunday or 4th Saturday and Sunday in August. The Coast Guard is establishing a temporary suspension of the regulation listed at section (c.) line No. 23 in the Table to §100.501 and inserting this new temporary regulation at the Table to §100.501 line No. 24 in order to reflect the change of date for this year's event. This change is needed to accommodate the change in date of the annual Mattaponi Drag Boat Race. No other portion of the Table to §100.501 or other provisions in §100.501 shall be affected by this regulation.

As such this special local regulation will restrict vessel movement in the regulated area during the marine event. The regulated area is needed to control vessel traffic and enhance the safety of participants and spectators of the Mattaponi Drag Boat Race. The regulation will be enforced from 10 a.m. to 6 p.m. on June 22, 2013, with an inclement weather date of June 23, 2013, from 10 a.m. to 6 p.m. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or

vessel may enter or remain in the regulated area during the effective period.

In addition to notice in the Federal Register, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, and marine information broadcasts.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

Although this regulation will prevent traffic from transiting a portion of the Mattaponi River during the events, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the advance notification that will be made to the maritime community via marine information broadcast, local radio stations and area newspapers so mariners can adjust their plans

accordingly. Additionally, the regulated area has been designed to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area between heats and when the Coast Guard Patrol Commander deems it is safe to do so.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities: owners or operators of vessels intending to transit this section of the Mattaponi River from 9 a.m. to 6 p.m. on June 22, 2013 and on June 23, 2013. This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Although the regulated area will apply to a $\frac{3}{4}$ mile segment of the Mattaponi River, traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander between races; (ii) In the case where the Patrol Commander authorizes passage through the regulated area

during the event, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course; (iii) Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction. This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing. Under figure 2-1, paragraph (34)(h), of the Instruction, an environmental analysis checklist

and a categorical exclusion determination will be available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. In § 100.501, in "Table to § 100.501," under "(c.) Coast Guard Sector Hampton Roads - COTP Zone," suspend entry 23 and add entry 24 to read as follows:

§ 100.501-35T05-0325 Special Local Regulations; Mattaponi Drag Boat Race, Mattaponi River; Wakema, VA

(c.) Coast Guard Sector Hampton Roads - COTP Zone				
No.	Date	Event	Sponsor	Location
*	*	* *	*	* *
24.	June 22, 2013 with an inclement weather date of June 23, 2013	Mattaponi Drag Boat Race.	Mattaponi Volunteer Rescue Squad and Dive Team.	All waters of Mattaponi River immediately adjacent to Rainbow Acres Campground, King and Queen County, Virginia. The regulated area includes a section of the Mattaponi River approximately three-quarter mile long and bounded in width by each shoreline, bounded to

				the east by a line that runs parallel along longitude 076°52'43" W, near the mouth of Mitchell Hill Creek, and bounded to the west by a line that runs parallel along longitude 076°53'41" W just north of Wakema, Virginia.
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Dated: 13 May 2013

John K. Little
Captain, U.S. Coast Guard
Captain of the Port Hampton Roads

[FR Doc. 2013-13001 Filed 06/03/2013 at 8:45 am; Publication

Date: 06/04/2013]